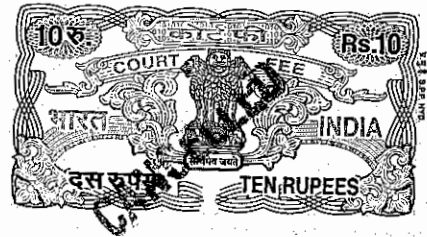


(1)



IN THE HIGH COURT OF CHHATTISGARH AT
BILASPUR **Single Bench**

WRIT PETITION(U/A 227) NO. 828 OF 2013 2014.

APPELLANT:
APPLICANT

Chandrabhusan Tiwari, S/o
R.P. Tiwari, Aged About- 56
years, R/o-Village and Post-
Sihawa, Thasil and Thana-
Nagri District- Dhamtari (C.G.)

VERSUS

RESPONDENT:
NON-APPLICANT

B. Bhardwaj, S/o- Shri. R.P.
Tiwari (wrongly mentioned in
cause title correct name of
father is Shri B.B.R. Murti),
Aged About- 48 years, R/o- D-
180, Sector-1, Devendra Nagar,
Thana- Devendra Nagar,
District- Raipur (C.G.)

R.No. 228/14
Presented by Shri V. May Pandey
dated 11/11/14

WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA



HIGH COURT OF CHHATTISGARH : BILASPUR
W.P.(227) No.828 of 2014

PETITIONER

Chandrabhusan Tiwari

Versus

RESPONDENT

B. Bhardwaj



Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

Present :- Shri Vinay Pandey, Advocate for the petitioner.
Shri Yogesh Pandey, Advocate for the respondent.

ORAL ORDER

(Passed on this 20th Day of January, 2015)

Heard learned counsel for the parties.

1. The petitioner is aggrieved by the order passed by the Appellate Court dismissing his appeal, which in turn was preferred to challenge the order passed by the trial Court dismissing his application under Order 39 Rule 1 & 2 CPC.
2. Petitioner/plaintiff claims to be in possession of the suit land having been put in possession by the attorney holder of the original owner Shri M.S. V. Prasad. According to the plaintiff, the defendant is interfering in his possession, therefore, he is required to file the present suit for permanent injunction.
3. While responding to the plaintiff's application for grant of temporary injunction, the defendant claimed out that a power of attorney was executed in his favour by the owner of the property. He also relied on an affidavit filed by the owner to the effect that the power of attorney on the basis of which the petitioner claims to be in possession of the property, is not genuine.
4. Both the courts below have refused the prayer for temporary injunction, however, by an interim order, this Court has directed the parties to maintain *status quo* with respect to the suit property.
5. In view of the finding by the courts below that the issue as to whether the power of attorney in favour of petitioner is genuine or not is subject



matter of evidence and in view of the interim order passed by this Court, this writ petition is disposed of with a direction to the trial Court to decide the suit as early as possible, preferably within a period of 9 months from the date of submission of the certified copy of this order, subject to cooperation by the parties.

6. Interim order granted by this Court on 14.11.2014 shall remain in operation during pendency of the suit, however, the trial Court shall not be influenced by continuation of the interim order and the suit shall be decided strictly on the basis of the pleadings and evidence adduced by the parties in course of trial.

Sd/-

Prashant Kumar Mishra
Judge

